

APR 28 2008

Serial No. 10/674,562

Docket No. 3655/0303PUS1

Reply to Office Action dated February 6, 2008

REMARKS/ARGUMENTS

Claims 1, 4-6, 8-11, 14 and 16-26 are pending in the above application. By the above amendment, claims 2, 3, 7, 12, 13 and 15 have been cancelled without prejudice, and claims 19-26 have been added.

The Office Action dated February 6, 2008, has been received and carefully reviewed. In that Office Action, claims 1-18 were rejected under 35 U.S.C. 102(b) as being anticipated by Mewhinney. Each issue raised in that Office Action is addressed below, and reconsideration and allowance of the pending claims is respectfully requested in view of the above amendments and following remarks.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Mewhinney. By the above amendment, the limitations of claim 7 and intervening claims 2 and 3 have been added to claim 1. Amended claim 1 therefore has the same scope as original claim 7. The rejection of claim 7 is discussed below in connection with amended claim 1.

As amended, claim 1 recites that the means for estimating includes means for evaluating the proportion of time a customer speaks relative to the time an agent speaks. At least this limitation of former claim 7 is not shown or suggested by Mewhinney. The Office Action acknowledges that this limitation is missing from the art, but indicates that the limitations of claim 7 are "inherent with a fair reading of Mewhinney." It is respectfully submitted that the standard for establishing inherency as set forth in MPEP 2112 has not been satisfied and that the reliance on inherency in connection with the rejection of claim 7 is improper. In order to establish that an element recited in a claim is inherently present in a reference, it must be shown that the limitation is "necessarily present" in the reference. As provided in MPEP 2112, "The

Serial No. 10/674,562
Reply to Office Action dated February 6, 2008

Docket No. 3655/0303PUS1

fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *In re Rijckaert*, 28 U.S.P.Q. 2d 1955, 1957 (Fed. Cir. 1993). Mewhinney in no manner discusses evaluating the proportion of time the customer speaks relative to the time the agent speaks. Therefore, nothing about Mewhinney suggests that such a step is necessarily carried out when Mewhinney's system is used.

At least the limitation "means for evaluating the proportion of time the customer speaks relative to time the agent speaks" is not shown or suggested by the art of record, and claim 1 as amended is submitted to be allowable over Mewhinney for at least this reason.

Claims 4-6 and 8-10 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Mewhinney. By the above amendment, the limitations of claim 15 and intervening claims 12 and 13 have been added to claim 11. Amended claim 11 therefore has the same scope as original claim 15. The rejection of claim 15 is discussed below in connection with amended claim 11.

As amended, claim 11 recites that an estimating step includes steps of classifying a call into one of a plurality of call classes, performing methods of automatic speech analysis upon the service call and evaluating the proportion of time the customer speaks relative to time the agent speaks. As in the rejection of claim 7, the Office Action also relies on inherency to support the rejection of claim 11. As discussed above, however, the requirements for relying upon inherency have not been satisfied. Mewhinney does not show or suggest, expressly or inherently, a method step of evaluating the proportion of time the customer speaks relative to time the agent speaks.

Serial No. 10/674,562
Reply to Office Action dated February 6, 2008

Docket No. 3655/0303PUS1

Each limitation recited in claim 11 is not present in Mewhinney, and claim 11 as amended is therefore submitted to be allowable over Mewhinney.

Claims 14 and 16-18 depend from claim 11 and are submitted to be allowable for at least the same reasons as claim 11.

New claims 19-26 are also submitted to be allowable over the art of record. Claim 19 recites a method of estimating the time remaining on a service call, for use in a call management system which interconnects a customer who is using a communication device with one of a plurality of customer agents. The method includes defining a plurality of service calls phases, performing automated speech recognition on a conversation between the customer and one of the plurality of customer agents, and determining the phase of the service call based on the outcome of the automated speech recognition step. Neither Mewhinney nor the other art of record shows or suggests these steps, and claim 19 is submitted to be allowable for at least this reason.

Claims 20-26 depend from claim 19 and are submitted to be allowable for at least the same reasons as claim 19.

Claim 22 further recites evaluating the proportion of time the customer speaks relative to time the agent speaks. As discussed above in connection with claims 1 and 11, this step is not shown or suggested in the art of record. Claim 22 further distinguishes over the art of record for this reason.

Claim 23 further recites that estimating the time remaining in the service call includes recognizing a level of disfluency of speech of the customer and adjusting the estimated time

Serial No. 10/674,562
Reply to Office Action dated February 6, 2008

Docket No. 3655/0303PUS1

remaining in the service call based on the level of disfluency. Such a method is not shown or suggested in the art of record, and claim 23 further distinguishes over the art for this reason.

Claim 24 recites that estimating the time remaining in the service call includes the determining a speaking rate of the customer and estimating the time remaining in the service call based on the speaking rate. Such a method is not shown or suggested in the art of record, and claim 24 further distinguishes over the art for this reason.

Claim 25 recites that estimating the remaining time includes categorizing the verbosity of the customer and estimating the time remaining in the service call based on the verbosity. Such a method is not shown or suggested in the art of record, and claim 25 further distinguishes over the art for this reason.

Claim 26 recites that estimating the remaining time includes categorizing the accent of the customer and estimating the time remaining in the service call based on the accent. Such a method is not shown or suggested in the art of record, and claim 26 further distinguishes over the art for this reason.

CONCLUSION

Each issue raised in the Office Action dated February 6, 2008, has been addressed, and it is believed that claims 1, 4-6, 8-11, 14 and 16-26 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

APR 28 2008

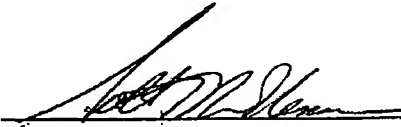
Serial No. 10/674,562
Reply to Office Action dated February 6, 2008

Docket No. 3655/0303PUS1

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

 # 37,250
Scott L. Lowe
Registration No. 41,458

PO BOX 1364
Fairfax, VA 22038-1364
1.703.621.7140

Date: April 28, 2008